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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,643	05/30/2006	John Newton	P503722US	4633
1218	7590	05/29/2007	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			ROWAN, KURT C	
			ART UNIT	PAPER NUMBER
			3643	
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			05/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/575,643	Applicant(s) NEWTON, JOHN	
	Examiner Kurt Rowan	Art Unit 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-8,11,13,14,16,17,20,26,28,29,33,34 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,11,13,14,16,17,20,26,28,29,33,34 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/13/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I, Figs. 1-4 in the reply filed on march 5, 2007 is acknowledged.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 29, 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 33 depends from canceled claim 21 and thus the scope of the claim can not be determined.
4. Claim 29 recites the limitation "the adhesive material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 4, 11, 16, 17, 26, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1 197 146 A1.

The EP '146 patent shows an access portion, an entrapment portion accessible via the access portion, detection means, means for indicating detection the presence of a pest

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once in the region of the entrapment portion. EP '146 shows inspection means arranged to allow for viewing of a trapped pest. In reference to claim 16, EP '146 shows a light emitting diode as a visual signal. In reference to claim 17, EP '146 discloses transmitting a data signal to a remote location in column 6, lines 50-53. In reference to claim 26, EP '146 shows a removable locating frame 12a-12e that are inherently removable. In reference to claim 28, EP '146 shows downwardly depending leg members 4a. The examiner notes the presence of several "means for" clauses, but will give the claims their broadest reasonable interpretation unless applicant specifically invokes 35 USC 112, 6<sup>th</sup> paragraph.

7. Claims 33, 34, 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Gatewood, Jr. (US 5673509).

The patent to Gatewood shows a disposable trap having an entrapment portion comprising a flat foldable member with an adhesive portion 24 provided on a first portion and a window 22 formed on a second portion such that the second portion is folded onto the first portion, the adhesive material is exposed through the window. See Fig. 1.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 5-8, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '146 as applied to claim 1 above, and further in view of Nowak (US 5497576).

The EP '146 patent shows a trap and has been discussed above. Ep '146 does not show an adhesive. The patent to Nowak shows a trap having an adhesive area 25 and a crawling area 12. Nowak shows an area having a relatively roughened texture 31 and at least one further section 23 of the member having a relatively smooth texture. In reference to claims 5-8, it would have been obvious to provide EP '146 with a surface portion such as the adhesive that is arranged to discourage a pest from traversing there over. In reference to claim 29, Nowak shows leg members 29 to guide the pest to the adhesive material 25. It would have been obvious to provide EP '146 with adhesive material as shown by Nowak for the purpose of catching pests.

10. Claims 13-14, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '146 as applied to claim 1 above, and further in view of Celestine (US 6016623).

The EP '146 patent shows a trap having detection means but not an emitter/detector pair. The patent to Celestine shows a trap having a detection means comprising an emitter/detector pair arranged such that a radiation beam extending between the emitter/detector pair is broken by a pest. In reference to claim 13, it would have been obvious to provide EP '146 with an emitter/detector pair as shown by Celestin since merely one detector is being substituted for another and the function is the same. In reference to claim 20, Celestine shows the detection means 35 (located in the main

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housing) and the means for indicating detection 46 (located in housing 40) being located in separate housings.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Nelson, Bergeson, Leyerle, Knuppel, Stewart, Chiba, Gehret, Orsano, Gross, McQueen, Isborn, and Vincent show the state of the art in pest traps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink that reads "Kurt Rowan". The signature is fluid and cursive, with a long, sweeping horizontal stroke at the end.

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Kurt Rowan  
Primary Examiner  
Art Unit 3643

KR